

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GIL CROSTHWAITE, JOHN BONILLA, in their
respective capacities as Trustees of the
OPERATING ENGINEERS HEALTH AND
WELFARE TRUST FUND FOR NORTHERN
CALIFORNIA et al.,

Plaintiff,

vs.

AVOCA TRUCKING & EXCAVATING, INC. et
al.,

Defendant.

No. C 04-2077 MEJ

ORDER TO SHOW CAUSE

Plaintiff commenced this action on May 26, 2004. On July 19, 2004, plaintiff requested an Entry of Default by the Clerk, which was subsequently granted on July 29, 2004. On September 16, 2004, plaintiff moved for an Ex Parte Application to Remove Case Management Conference from Calendar in Light of the Entry of Default. In support of the Ex Parte Application, plaintiff's counsel represented that a Motion for Entry of Default Judgment would be filed within "sixty days" of October 2004. Plaintiff's request was GRANTED. The Court removed the above-captioned matter from the calendar and ORDERED plaintiff to file the Motion for Entry of Default Judgment within "sixty days" of the Court's ORDER.

To date, plaintiff has not submitted a Motion for Entry of Default Judgment or provided an update as to the status of the case. The Court finds it appropriate to dismiss this matter for failure to prosecute, unless Plaintiff can show good cause why the case should remain active. Accordingly, the Court hereby

1 ORDERS Plaintiff to show cause why this case should not be dismissed pursuant to Federal Rule of Civil
2 Procedure 41 for failure to prosecute. Plaintiff shall **e-file** a declaration no later than October 28, 2005, as
3 well as provide a chambers' copy, and the Court shall hold a hearing on November 10, 2005, at 10:00 a.m.
4 in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California.

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6 IT IS SO ORDERED.

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9 Dated: September 22, 2005



MARIA-ELENA JAMES
United States Magistrate Judge